

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

SONY MUSIC ENTERTAINMENT, *et al.*,

Plaintiffs,

v.

COX COMMUNICATIONS, INC., *et al.*,

Defendants.

Case No. 1:18-cv-00950-LO-JFA

DEFENDANTS' MOTION TO SEAL

Pursuant to Rule 26 of the Federal Rules of Civil Procedure and Local Civil Rule 5(C), Defendants (“Cox”) move the Court to enter an order allowing Cox to file under seal a portion of Defendants’ Memorandum in Support of its Consolidated Opposition to Plaintiffs’ Motion to Strike Portions of the Declaration of Thomas Kearney (ECF 388) and Motion to Strike the Declaration of Thomas Patrick Lane and Portions of the Declaration of Thomas Kearney (ECF 420) (“Consolidated Opposition Memorandum”) and certain exhibits attached thereto (“Confidential Exhibits”) (collectively, “Confidential Materials”). The Confidential Materials reference, quote from, or comprise information that has been designated under the Stipulated Protective Order in this case (ECF No. 58) (the “Protective Order”) by Plaintiffs and/or third parties as Highly Confidential – Attorneys’ Eyes Only.

- **Exhibit 2 to the Consolidated Opposition Memorandum**– Excerpts from the May 6, 2019 deposition of Vance Ikezoye, designated as Highly Confidential – Attorneys’ Eyes Only by third-party Audible Magic.
- **Exhibit 3 to the Consolidated Opposition Memorandum** – Excerpts from the June 28, 2019 deposition of Barbara Fredericksen-Cross, designated as Highly Confidential – Attorneys’ Eyes Only by Plaintiffs and Audible Magic (the underlying information).

Cox also seeks to file under seal an unredacted version of the Consolidated Opposition Memorandum and a redacted version of the same to the extent those documents quote from or otherwise disclose information contained in the above-referenced documents or documents designated as either Confidential or Highly-Confidential Attorneys' Eyes Only and subject to either a pending or previously granted motion to seal.

Cox takes no position on whether the above-referenced documents and information that are the subject of this motion are confidential. Rather, Cox files this Motion based on Plaintiffs' and third-parties' designations. Thus, Local Civil Rule 5(C) provides that "[w]hen a party moves to file material under seal because another party has designated that material as confidential, the party designating the material as confidential must file a response to the motion," which includes:

1. "A statement why sealing is necessary, and why another procedure will not suffice, as well as appropriate evidentiary support for the sealing request." L. Civ. R. 5(C)(2).
2. "References to the governing case law, an analysis of the appropriate standard to be applied for that specific filing, and a description of how that standard has been satisfied." L. Civ. R. 5(C)(3).
3. "Unless permanent sealing is sought, a statement as to the period of time the party seeks to have the matter maintained under seal and how the matter is to be handled upon unsealing." L. Civ. R. 5(C)(4).
4. A proposed order.

Dated: October 14, 2019

Respectfully submitted,

/s/ Thomas M. Buchanan

Thomas M. Buchanan (VSB No. 21530)

WINSTON & STRAWN LLP

1700 K Street, NW

Washington, DC 20006-3817

Tel: (202) 282-5787

Fax: (202) 282-5100

Email: tbuchana@winston.com

*Attorney for Cox Communications, Inc.
and CoxCom, LLC*

Of Counsel for Defendants

Michael S. Elkin (*pro hac vice*)
Thomas Patrick Lane (*pro hac vice*)
WINSTON & STRAWN LLP
200 Park Avenue
New York, NY 10166-4193
Telephone: (212) 294-6700
Facsimile: (212) 294-4700
Email: melkin@winston.com
Email: tlane@winston.com

Jennifer A. Golinveaux (*pro hac vice*)
Thomas J. Kearney (*pro hac vice*)
WINSTON & STRAWN LLP
101 California Street, 35th Floor
San Francisco, CA 94111-5840
Telephone: (415) 591-1000
Facsimile: (415) 591-1400
Email: jgolinveaux@winston.com
Email: tkearney@winston.com

Michael L. Brody (*pro hac vice*)
WINSTON & STRAWN LLP
35 W. Wacker Dr.
Chicago, IL 60601
Telephone: (312) 558-5600
Facsimile: (312) 558-5700
Email: mbrody@winston.com

Diana Hughes Leiden (*pro hac vice*)
WINSTON & STRAWN LLP
333 S. Grand Avenue, Suite 3800
Los Angeles, CA 90071
Telephone: (213) 615-1700
Facsimile: (213) 615-1750
Email: dhleiden@winston.com

CERTIFICATE OF SERVICE

I hereby certify that on October 14, 2019, the foregoing was filed and served electronically by the Court's CM/ECF system upon all registered users.

/s/ Thomas M. Buchanan

Thomas M. Buchanan (VSB No. 21530)

1700 K Street, NW

Washington, DC 20006-3817

Tel: (202) 282-5787

Fax: (202) 282-5100

Email: tbuchana@winston.com

*Attorney for Cox Communications, Inc.
and CoxCom, LLC*